

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

UNITED STATES, *et al.*,

*Plaintiffs,*

vs.

GOOGLE LLC,

*Defendant.*

No: 1:23-cv-00108-LMB-JFA

**JOINT MOTION FOR ENTRY OF AN ORDER MODIFYING THE  
SUBMISSION AND HANDLING OF PROPOSED TRIAL EXHIBITS**

PURSUANT TO Local Civil Rule 79(A), Plaintiffs and Defendant Google LLC (“Google”) seek an order modifying the requirements for the submission of proposed trial exhibits and the handling of exhibits used at trial in order to avoid burdening the Court with voluminous paper copies of the parties’ exhibits. While the parties are willing and able to comply with Local Civil Rule 79(A), the parties are raising this issue for the Court’s consideration given that the voluminous exhibits may present logistical challenges. In support of their request, the parties state as follows:

1. The bench trial in this antitrust action is set to commence on Monday, September 9, 2024.
2. The parties have filed their Rule 26(a)(3)(A)(iii) exhibit lists. Dkt. Nos. 894, 923. Plaintiffs have identified 1855 proposed trial exhibits, and Google has identified 2525 proposed trial exhibits. The parties estimate that, when printed and inserted in three-ring binders with numbered dividers (*see* Local Civil Rule 79(A)), one set of Plaintiffs’ proposed trial exhibits will fill 41 binders, and one set of Google’s proposed trial exhibits will fill 47 binders. Furthermore,

the parties estimate that one complete set of Plaintiffs' proposed trial exhibits will fill 9 Bankers Boxes, and one set of Google's proposed trial exhibits will fill 16 Bankers Boxes.

4. Under Local Civil Rule 79(A), each party must deliver to the Clerk an "original" set and "two (2) copies" of its binders "the business day before the trial"—in this instance, Friday, September 6, 2024. Thus, unless this procedure is modified, the parties will deliver to the Clerk 75 Bankers Boxes containing an original and two copies of all their proposed exhibits—27 boxes from Plaintiffs and 48 from Google.

5. The parties respectfully submit that the volume of exhibits may present storage complications.

6. The parties' proposed trial exhibits also include datasets and source code, which, in practical terms, cannot be printed on paper or as Portable Document Files (PDF). The parties propose to submit those exhibits on electronic storage media.

7. Therefore, the parties seek leave to deliver to the Clerk's office: (a) digital copies of their trial exhibits via electronic storage media (e.g., an external hard drive or disc) and (b) one set of their printed trial exhibits in binders, per Local Civil Rule 79(A). In addition, for witness examinations, the parties would prepare and use individualized "witness binders" for each witness—one for direct and one for cross-examination—which would contain the pre-marked proposed trial exhibits to be used with that witness. The witness binder would be submitted to the witness through the Court Security Officer, and additional copies of each witness binder will be provided to the Court and opposing counsel.

8. Moreover, subject to any Court-approved redactions or sealing, the parties propose to display each exhibit on the Court's Electronic Evidence Presentation System during the

examination of each witness. Each side will have a trial graphics technician who will have electronic versions of all proposed trial exhibits available for display.

9. At the conclusion of each trial day, the parties will meet and confer with the Deputy Clerk to ensure that all exhibits admitted that day are recorded on the admitted-exhibits list, and a paper copy is included in a binder kept by the Deputy Clerk. Any proffered exhibit that is not admitted would likewise be noted by the Deputy Clerk and kept in a separate binder. Excess copies of used witness binders would be removed by the parties each day, as well.

10. As directed by the Court, the parties would then post admitted exhibits on a website no later than 10:00 a.m. the following day. Dkt. No. 1147 at 1-2.

11. Notwithstanding the foregoing, the parties defer to the Court's preferences, including delivering the number and form of copies as specified by Local Civil Rule 79(A).

WHEREFORE, the parties jointly move for the relief outlined above. A proposed order is submitted herewith.

***The parties do not seek separately scheduled oral argument on this motion but, if directed by the Court, will appear to respond to the Court's questions or concerns.***

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Dated: August 30, 2024

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